

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SUPERSHUTTLE INTERNATIONAL,
INC., ET AL.,) Civil No. 09cv1825 JAH (NLS)
Plaintiff,)
v.)
PATRICK W. HENNING, ET AL.,) **ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S MOTION
TO COMPEL PRODUCTION OF
DOCUMENTS**
Defendants.) [Doc. No. 13]
)

Plaintiff filed a complaint in this civil rights case on August 21, 2009. Defendant California Employment Development Department (EDD) filed a motion to dismiss on September 17, 2009. The court took the matter under submission on November 6, 2009. On February 26, 2010, the parties filed a report of their Rule 26(f) planning meeting, in which they assert that no discovery deadline should be set until after the court's initial scheduling conference. On April 26, 2010, Plaintiff filed this motion to compel. EDD's motion to dismiss remains pending with the district judge.

Given the pending motion to dismiss, no defendant has yet filed an answer in this action. Consequently, the court has not yet scheduled an Early Neutral Evaluation (ENE) or other conference. Further, no party has asked the court hold an ENE, discovery conference or other status or case management conference. *See* Civ. Local R. 16.1(c). Because discovery is not yet open, Plaintiff's motion is premature. The court, therefore, **DENIES without prejudice** Plaintiff's motion to compel.

DATED: April 28, 2010


Hon. Nita L. Stormes
U.S. Magistrate Judge